IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 36517 of 2007(V)

PETITIONER:

M/S. SUPPLY HOUSE,
MISSION QUARTERS, TRICHUR, A REGISTERED
PARTNERSHIP FIRM, REPRESENTED BY ITS PARTNER
MRS. REENA JACOB.

BY ADV. SRI.E.P.GOVINDAN

RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER,
FIRST CIRCLE, TRICHUR.

2. DY. COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

3. DY. TAHSILDAR (R.R.),
TRICHUR.

4. STATE OF KERALA, REPRESENTED BY
SECRETARY, TAXES DEPARTMENT, GOVT. SECRETARIAT,
TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 36517 OF 2007 V
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Dated this the 11th day of December, 2007

J U D G M E N T

Aggrieved by Exts. P2 and P2(a) orders of assessment for the years 2002-03 and 2004-05, the petitioner filed appeals before the 2nd respondent. In the stay petitions that were filed along with the appeals, Exts.P5 and P5(a) orders have been passed directing to pay 50% of the total tax due after deducting Rs.50,000/- that is already paid by the petitioner on 22/10/2007. It is these conditional orders which are under challenge in this writ petition.

2. Exts.P1 and P1(a) are the revenue recovery notices that were issued. This shows that the total liability of the petitioner for the period is Rs.1,53,477/-. Therefore, if after giving credit to Rs.50,000/- that the petitioner has already paid, the petitioner still has to make payment of more than Rs.50,000/- to comply with Exts.P5 and P5(a) conditional orders. This is much more than 50% that is ordinarily directed to be deposited by the appellant. Therefore, I am inclined to think that the condition imposed is onerous.

3. For the above reason, I modify the condition imposed in Exts. P5 and P5(a) and I direct that the petitioner shall deposit 25% of the total tax due after deducting Rs.50,000/- that is already paid by the petitioner on 22/10/2007. For the balance amount that is due, the petitioner shall furnish security before the Assessing Authority as already directed by the Appellate Authority in the impugned orders. The deposit shall be made within thirty days from today, in which case, the Appellate Authority shall consider the appeal on merits, deferring further recovery proceedings until disposal of appeal.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp